

## REMARKS

This Paper is submitted in response to the Office Action dated May 18, 2006 having a shortened statutory response period ending on August 18, 2006. This Paper is filed within the shortened statutory response period. The Commissioner is hereby authorized to charge fees to Deposit Account number 02-1818.

Claims 1-40 are currently pending in this application. Claims 41-66 have been canceled as a result of a restriction requirement.

Claims 1-6 and 12-17 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0115795 to Shang et al. (*Shang*). Claims 7-8 were rejected under 35 U.S.C. §103(a) for allegedly being obvious over *Shang* in view of U.S. Patent No. 5,397,842 to Hamilton (*Hamilton*). Claims 9-11 were rejected under 35 U.S.C. §103(a) as being obvious over *Shang* in view of U.S. Patent No. 6,346,308 to Cahill et al. (*Cahill*). Applicants respectfully disagree with and traverse these rejections for the reasons set forth below.

*Shang* teaches away from a film that includes a cross-link free polymer blend as recited in the present claims. *Shang* discloses a film that includes a two component blend, the first component being crosslinked. *Shang*, ¶24. On the other hand the present claims recite a film composed of a cross-link free polymer blend. *Shang*'s cross-linked polymer blend thereby teaches away from the cross-link free polymer blend recited in the present claims. As teaching away is a *per se* demonstration of non-obviousness, any alleged rejection based on *Shang* is correspondingly nonobvious. *In re Dow Chemical Co.*, 837 F.2d 469 (Fed. Cir. 1988).

*Hamilton* fails to fulfill the deficiencies of *Shang*. *Hamilton* discloses a polymer blend composed of 1) a polyolefin and 2) a segmented copolymer. *Hamilton*, col. 3 lines 33-62. *Hamilton*'s segmented copolymer includes a non-polar polyolefin and a vinyl aromatic monomer. *Id.* Consequently, *Hamilton* fails to disclose or suggest an ethylene-based or ionomer first component (claim 1) or an ethylene  $\alpha$ -olefin copolymer (claim 19) as recited in the present claims. Moreover, the *Hamilton* blend may be crosslinked, further teaching away from the present claims. *Hamilton*, col. 3 lines 60-63, col. 5 lines 61-68.

*Cahill* also fails to fulfill the deficiencies of *Shang*. *Cahill* discloses an oxygen barrier composition that may be used with polyolefin-based packaging. *Cahill*, col. 5 lines 30-40. *Cahill*, however, has no disclosure regarding a cross-link free polymer blend with an ethylene-

based first component present in an amount of 1-60% by weight of the blend and a propylene based second component present in an amount of 40-99% by weight of the blend as recited in the present claims. *Cahill* therefore fails to disclose or suggest the claimed subject matter.

### **CONCLUSION**

In view of the foregoing remarks, Applicants submit that claims 1-40 are in a condition for allowance and respectfully request a notice of the same.

Respectfully submitted,  
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